

SUBCOMMITTEE: SUBCOMMITTEE #2

SENATE BILL NO. 545

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice

on _____)

(Patron Prior to Substitute--Senator Obenshain)

A BILL to amend the Code of Virginia by adding in Title 17.1 a chapter numbered 10, consisting of sections numbered 17.1-1000 through 17.1-1005, relating to court reporters; prohibited actions; civil penalties.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 17.1 a chapter numbered 10, consisting of sections numbered 17.1-1000 through 17.1-1005, as follows:

CHAPTER 10.COURT REPORTERS.**§ 17.1-1000. Definitions.**

As used in this chapter, unless the context requires a different meaning:

"Court reporter" means a person who records legal proceedings by stenotype machine or other means allowed under the Rules of Supreme Court of Virginia and provides prompt preparation of an accurate, verbatim written transcript.

"Court reporting services" means services provided by a court reporter.

"Court reporting services provider" means a business, entity, or firm that provides or arranges for court reporting services.

"Legal proceeding" includes a court proceeding, a deposition, an administrative hearing, an arbitration hearing, an examination under oath, and a sworn statement.

§ 17.1-1001. Applicability; waiver.

A. This chapter applies to court reporting services performed in the Commonwealth, whether a party appears in person or by remote access, provided by:

27 1. A court reporter or court reporting services provider, whether or not based in the
28 Commonwealth, in connection with a legal proceeding that is commenced or maintained in the
29 Commonwealth; or

30 2. A court reporter or court reporting services provider based in the Commonwealth in connection
31 with a legal proceeding that is commenced or maintained in a foreign jurisdiction.

32 B. The provisions of this chapter shall not be waived or otherwise modified. Any waiver or
33 modification is contrary to public policy and is void and unenforceable.

34 **§ 17.1-1002. Prohibited actions; exception.**

35 A. A court reporter or court reporting services provider shall not:

36 1. Enter into an oral or written contractual agreement for more than one case, action, or legal
37 proceeding with a party, insurance company, or any other person or entity that has a financial interest in
38 the case, action, or legal proceeding. This prohibition does not apply to a contract for the provision of
39 court reporting services between a court reporter or court reporting services provider and an attorney or
40 law firm that is counsel of record in one or more related cases, actions, or legal proceedings.

41 2. Give an economic or other advantage to a party or a party's attorney, representative, agent,
42 insurer, or employee without offering the advantage to all parties or fail to offer comparable services,
43 prices, or financial terms to all parties, except that different credit terms may be offered based on payment
44 experience and creditworthiness;

45 3. Offer or provide court reporting services if payment for those services is made contingent on
46 the outcome of the legal proceeding, base the compensation for the court reporting services on the outcome
47 of the legal proceeding, or otherwise give the court reporter or court reporting services provider a financial
48 interest in the action;

49 4. Enter into an agreement for court reporting services that restricts an attorney from using the
50 court reporter or court reporting services provider of the attorney's choosing;

51 5. Include a court reporter or court reporting services provider on a list of preferred providers of
52 court reporting services that is maintained by a person, business, entity, or firm that has entered into an
53 oral or written contractual agreement for more than one case, action, or legal proceeding with an attorney.

party, insurance company, third-party administrator, or any other person or entity that has a financial interest in the case, action, or legal proceeding;

6. Allow the format, content, or body of a certified transcript as submitted by the court reporter to be manipulated in a manner that increases the cost of the transcript; or

7. Provide additional advocacy or litigation support services, including trial preparation assistance, deposition summaries, and nonpublished transcript databases.

B. Notwithstanding subsection A, if authorized or required by law, ordinance, or rule, a governmental entity may obtain court reporting services on a long-term basis through competitive bidding.

§ 17.1-1003. Comparable treatment of parties.

A. At any time during or following a legal proceeding, an attorney or a party is entitled to an itemized statement of the rates and charges for all services that have been or will be provided by a court reporter or court reporting services provider that is providing court reporting services to any party to the legal proceeding.

B. Upon request, a court reporter or court reporting services provider shall provide to the parties, if known, information on prices, terms, and conditions of court reporting services in sufficient time prior to the commencement of the legal proceeding to allow the parties the opportunity to effectively negotiate for any changes necessary to ensure that comparable terms and conditions are made available to all parties.

C. Upon request, a court reporter or court reporting services provider shall provide an itemized invoice of all rates and charges for court reporting services provided to the administrative body, court, or administrative tribunal in which the action upon which the legal proceeding is based is pending or scheduled to be heard.

§ 17.1-1004. Pro bono services.

Nothing in this chapter shall be construed to limit the ability of a court reporter or court reporting services provider to provide pro bono services to persons or parties with limited means.

§ 17.1-1005. Penalties.

A. A person harmed by a violation of this chapter may file a motion alleging the violation with the administrative body, court, or administrative tribunal in which the action upon which the legal proceeding

is based is pending or is scheduled to be heard. A person need not commence a separate action to allege a violation of this chapter.

B. A complaint alleging a violation of this chapter may be filed by any person with knowledge of the offense or by the administrative body, court, or administrative tribunal on its own initiative. The court reporter or court reporting services provider alleged to have violated this chapter shall be given notice and a right to be heard on any such complaint, with the right of appeal or review as in other cases.

C. A complaint and request for civil penalties and sanctions may be brought:

1. By motion in the administrative body, court, or administrative tribunal in which the case is pending or scheduled to be heard; or

2. In the general district court for the county or city in which the court reporting services were or are scheduled to be provided.

D. A court reporter or court reporting services provider that willfully violates this chapter shall be subject to a civil penalty of \$500 for the first offense, \$750 for the second offense, and \$1,000 for the third and any subsequent offense. Such penalty shall be collected by the clerk of the administrative body, court, or administrative tribunal in which such penalty was assessed. The amounts so collected shall be paid by the clerk to the state treasury and credited to the Legal Aid Services Fund within the Virginia State Bar fund. Such amounts credited to the Legal Aid Services Fund shall be disbursed by the Virginia State Bar by check from the State Treasurer upon a warrant of the comptroller to nonprofit legal aid programs organized under the auspices of the Virginia State Bar through the Legal Services Corporation of Virginia.

In addition to any civil penalty assessed, the administrative body, court, or administrative tribunal that received the complaint pursuant to this section and determined that a person or entity violated this chapter may bar such person or entity from providing services in matters before such body, court, or tribunal.

E. An administrative body, court, or administrative tribunal that finds a violation as a result of a complaint pursuant to this section shall submit a record of the nature and disposition of each complaint to the Virginia State Bar, which shall make such information publicly available on its website.